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In re Application of	:	
FIORI, Gerolamo	:	
Application No.: 10/531,923	:	DECISION ON
PCT No.: PCT/IB03/04607	:	
Int. Filing Date: 20 October 2003	:	REQUEST
Priority Date: 21 October 2002	:	
Attorney's Docket No.: 242/9-2075	:	UNDER 37 CFR 1.42
For: DEVICE AND METHOD ... CHOCOLATE	:	
SHELL MOULDING	:	

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371. A review of the submission reveals an indication that inventor Gerolamo Fiori is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

#### **BACKGROUND**

On 20 October 2003, applicants filed international application PCT/IB03/04607, which claimed a priority date of 21 October 2002. A copy of the international application was transmitted to the Office on 29 April 2004. The deadline for entry into the national stage in the United States was 21 April 2005.

On 19 April 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a declaration and an application data sheet.

#### **DISCUSSION**

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

The declaration is executed by Viviana Bertolotti and Cecelia Fiori as heiresses. The declaration provided does not state that they are the sole heirs of Gerolamo Fiori. If a legal representative has been or is required to be appointed under applicable law, such person must sign the declaration and indicate the relationship, e.g., "legal representative of inventor Gerolamo Fiori." Otherwise, all heirs of Gerolamo Fiori must sign the declaration and indicate the relationship, e.g., "sole heirs of Gerolamo Fiori," or "legal representative of Gerolamo Fiori." The indication that Viviana Bertolotti and Cecelia Fiori are heiresses leaves open the possibility that there are other non-signing joint heirs.

The declaration must list the inventors and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address. See 37 CFR 1.497. The declaration appears to list the information for the heiresses, but not for the deceased inventor.

**CONCLUSION**

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497(a)-(b) and 1.42 and the surcharge for late filing of the oath or declaration within a time period of **TWO (2) MONTHS** from the mail date of this Decision. **THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.** Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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